

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA,) Criminal Case No. 3:95cr00051-1
)
v.) 2255 FINAL ORDER
)
DAMIEN NELSON.) By: Norman K. Moon
) United States District Judge

For the reasons stated in the accompanying Memorandum Opinion, it is hereby

ORDERED and ADJUDGED

that Nelson's petition (Docket No. 262) is **CONSTRUED** as a § 2255 motion and the Clerk is **DIRECTED** to docket it as such; Nelson's motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255, is **DISMISSED without prejudice** as successive; and this case is **STRICKEN** from the active docket of the court.

Further, finding that Nelson has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

The Clerk is directed to send a certified copy of this Order and the accompanying Memorandum Opinion to the petitioner.

Entered this 28th day of January, 2011.

Norman K. Moon
NORMAN K. MOON
UNITED STATES DISTRICT JUDGE